

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

In re:	§	
	§	Chapter 11
NEW CENTURY TRS HOLDINGS, INC.,	§	Bk. No. 07-10416v (KJC)
<i>et al.</i> ,	§	
	§	
Debtors.	§	Jointly Administered
	§	
POSITIVE SOFTWARE SOLUTIONS,	§	
INC.,	§	
	§	
Appellant,	§	
	§	
v.	§	Civ. No. 07-559-SLR
	§	
NEW CENTURY TRS HOLDINGS,	§	
INC., <i>et al.</i> ,	§	
	§	
Appellees	§	

MOTION TO DISMISS

To the Hon. Sue L. Robinson, United States District Court Judge:

Appellant Positive Software Solutions, Inc. (“PSSI”), moves to dismiss the captioned appeal (the “Appeal”) and in support of this motion would show as follows:

1. PSSI initiated the Appeal, seeking the reversal of an order issued by the Bankruptcy Court below finding that PSSI had violated the automatic stay (the “Stay Ruling”).
2. Appellee Debtors in the captioned jointly administered bankruptcy case (the “Debtors”) opposed PSSI’s appeal of the Stay Ruling, but did not assert any cross-appeal to the Stay Ruling.
3. In connection with an omnibus settlement agreement entered into between the Debtors and PSSI (the “Agreement”), PSSI and the Debtors resolved the portion of the Stay Ruling from which PSSI appealed. In particular, the Agreement provides that the parties will request that the Bankruptcy Court withdraw its holding finding that PSSI had violated the automatic stay.

4. In accordance with the Agreement, the Bankruptcy Court has withdrawn the portion of the Stay Order currently that is the subject of this appeal. Accordingly, this appeal has become moot.

5. In accordance with a confirmed bankruptcy plan, the Debtors have been succeeded in this matter by the New Century Liquidating Trust and Reorganized New Century Warehouse Corporation (collectively, the "Trust"). Accordingly, service of this motion is being made upon counsel of record for the "Trust".

For the foregoing reasons, PSSI requests that this appeal be dismissed.

Dated: Wilmington, Delaware
August 19, 2008

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 19, 2008, he caused to be served a true and correct copy of the foregoing motion by First Class U.S. Mail on the following counsel of record for the New Century Liquidating Trust and Reorganized New Century Warehouse Corporation.

By: /s/ Daniel K. Astin
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ORDER GRANTING MOTION TO DISMISS

Upon consideration of the Motion to Dismiss filed by Appellant Positive Software Solutions, Inc. ("PSSI"), this Court finds that the motion is meritorious and should be granted. Accordingly,

IT IS ORDERED that the captioned appeal is hereby dismissed.

Dated:

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The Honorable Sue L. Robinson
United States District Court Judge